

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 29, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and D. Nolan,
Deputy Clerk.

B166967 In re Jason W. et al./DCFS v. Gina E.

Argument waived, cause submitted.

B156357 Joseph Rex Perera et al.
v.
Eva Windsor, et al.

Merits:
Argued by Dale K. Galipo for appellants and by Andrea Lynn Rice for
respondents. Cause submitted.

B163447 Rafael Chodos
v.
Howard J. Gorin

Merits:
Argued by Rafael Chodos for appellant. Howard J. Gorin appears for
respondent. Cause submitted.

DIVISION ONE (Continued)

B165055 Rafael Chodos
 v.
 Howard J. Gorin

Merits:
Howard J. Gorin appears for appellant. Rafael Chodos appears for respondent. Cause submitted.

B162209 Soprema, Inc.
 v.
 Bligh Pacific

Merits:
Argued by Joseph H. Huprich for appellant and by Sima R. Salek for respondent. Cause submitted.

Ortega, J. leaves the bench.

B162174 Branden Ward Seifert
 v.
 City of Los Angeles, et al.

Merits:
Argued by Sohaila Sagheb for appellant and by Lisa S. Berger, Deputy City Attorney for respondents. Cause submitted.

Ortega, J. returns to the bench.

B164360 William J. Hanks
 v.
 Bill Lockyer, as Attorney General

Merits:
Argued by William J. Hanks, in pro per for appellant and by Glenn Savard, Deputy Attorney General for respondent. Cause submitted.

Ortega, J. leaves the bench.

DIVISION ONE (Continued)

B163782 Joseph R. Giannini, et al.
 v.
 Kenji Taguchi

Merits:
Argued by Joseph R. Giannini for appellants. Lawrence D. Strick appears for respondent. Cause submitted.

Ortega, J. returns to the bench.

Spencer, J. leaves the bench.

B165096 Aletha Lynn Talamantez
 v.
 Sebastian Gomez

Merits:
Argued by David Ryan for appellants and by Jon Mitchell Jackson for respondent. Cause submitted.

B161189 Inez Sepmeyer
 v.
 Ralphs Grocery Store

Merits:
Argued by David E.R. Woolley for appellant and by Stuart E. Rissman for respondent. Cause submitted.

Spencer, P.J. returns to the bench.

B161523 Sue Sarkis
 v.
 California Association of Licensed Investigators, Inc.

Merits:
Argued by David A. Cordier for appellant and by Dennis M. Alexander for respondent. Cause submitted.

Ortega, J. leaves the bench.

DIVISION ONE (Continued)

B164212 Thomas S.L. Kung, et al.
 v.
 Ming Ter Chen, Etc., et al.

Merits:
Argued by Theodore W. Frank for appellants and by Mark H. Cheung for respondents. Cause submitted.

Ortega, J. returns to the bench.

Mallano, J. leaves the bench.

B165661 Kay Yan, et al.
 v.
 Memrad Medical Group, Inc.

Merits:
Argued by Daniel J. Koes for appellants and by Adrian J. Guidotti for respondent. Cause submitted.

Mallano, J. returns to the bench.

B164097 Francine Lapensee
 v.
 Empire Properties, et al.

Merits:
Argued by Juan A. Torres for respondents and there being no appearance for appellant. Cause submitted.

B164893 Zelman A-1
 v.
 Burbank-Glendale-Pasadena Airport Authority

Merits:
Argued by Alfred E. Augustini for appellant and by Richard Simon for respondent. Cause submitted.

DIVISION ONE (Continued)

B165391 Waldo F. Kusterns
 v.
 Jose B. Rodriguez, et al.

Merits:
Argued by Michael J. Melton for appellant and by Michael Levine for
respondents. Cause submitted.

Mallano, J. leaves the bench.

B158539 Merlin Hartt, et al.
 v.
 County of Los Angeles

Merits:
Argued by Wendy Lascher for appellants and by Girard Fisher for
respondent. Cause submitted.

Court adjourned.

DIVISION TWO

B161245 California Automobile Insurance (Certified for Publication)
 v.
 Hogan, et al.

The judgment in favor of respondent is affirmed. The parties are ordered to
bear their own costs on appeal.

Doi Todd, J.

We concur: Nott, Acting P.J.
 Ashmann-Gerst, J.

DIVISION TWO (Continued)

B164945 Los Angeles County, D.C.S. (Not for Publication)
v.
Carey C.

The orders are affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B145255 People (Not for Publication)
v.
Rodriguez

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

B161821 People (Not for Publication)
v.
Arnal

The judgment is affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
 Ashmann-Gerst, J.

DIVISION TWO (Continued)

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The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

DIVISION THREE

B160663 People v. Williams (Not for Publication)

The judgment is modified by striking one of the five-year prior serious felony conviction enhancements and one of the one-year prior prison term enhancements, in accordance with this opinion. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modifications and forward to the Department of Corrections.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B165442 People (Not for Publication)
v.
Chirinos

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B158578 People v. Pena (Not for Publication)

The judgment is ordered modified to reflect a term of life without the possibility of parole plus 25 years to life in state prison for count 1 and to strike the \$200 parole revocation fine imposed under section 1202.45. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting these modifications.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B163595 People (Not for Publication)
v.
Ramirez

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B164274 People (Not for Publication)
v.
Remijio

The judgment is modified to reflect an award of presentence custody credit of 404 days consisting of 270 actual days and 134 days of conduct credit and, as so modified affirmed. The clerk of the superior court shall prepare and forward to the Department of Corrections an amended abstract of judgment.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION THREE (Continued)

B158026 People (Not for Publication)
v.
Rios

With respect to the conviction of shooting at an occupied motor vehicle, the judgment is affirmed. With respect to the conviction of attempted murder, the judgment is reversed with directions as follows: If the People do not retry Rios within 60 days after the filing of the remittitur in the trial court pursuant to Penal Code sections 1382, subdivision (a)(2), the trial court shall proceed as if the remittitur constituted an order modifying the judgment to reflect a conviction of attempted voluntary manslaughter (Pen. Code, 664/192) and resentence Rios accordingly.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B160437 People (Not for Publication)
v.
Trotter

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION FOUR

B163634 Los Angeles County, D.C.S. (Not for Publication)
v.
Steve L.

The monitored visitation order is affirmed, but the juvenile court is ordered on remand to issue a new order not conditioning visitation on the minors' consent.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

DIVISION FOUR (Continued)

B164383 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Diana S.

The order is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

DIVISION SIX

B159949 In re Calhoun and Simmons on Habeas Corpus (Certified for Publication)

The petition for writ of habeas corpus is denied. The order to show cause, having served its purpose, is discharged.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B163131 People (Not for Publication)
 v.
 Regacho

The judgment is modified to award appellant total custody credits of 264 days, consisting of 176 days of actual custody and 88 days of conduct credit. The trial court is directed to correct the abstract of judgment and forward a certified copy to the Department of Corrections. As so modified, the judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION SIX (Continued)

B162881 People (Not for Publication)
v.
Tovar

The judgment is modified to strike the \$1000 restitution fine and the suspended \$1000 parole revocation fine and to reflect a \$200 restitution fine and a suspended \$200 parole revocation fine. The judgment is otherwise affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

DIVISION SEVEN

B160445 People (Not for Publication)
v.
Berry, et al.

The convictions of defendants Berry and Hall are reversed. The conviction of defendant Freeman for violation of section 496 is reversed. The trial judge is ordered to resentence Freeman for one of the other two crimes of which he stands convicted.

Munoz, J. (Assigned)

We concur: Johnson, Acting P.J.
Woods, J.

B162900 Slauson Partnership, et al.
v.
Ochoa, et al.

Filed order modifying opinion. (No change in the judgment)

DIVISION SEVEN (Continued)

B161099 Jardine (Not for Publication)
v.
Love

The judgment is reversed and this matter is remanded to the trial court for further proceedings. On remand the trial court is directed to vacate its order sustaining the demurrer on the fiduciary duty cause of action against the respondents and to enter a new and different order: (1) overruling the individual respondents' demurrer on the fiduciary duty cause of action; and (2) sustaining respondent BRI's demurrer with leave to amend. (See Code Civ. Proc., § 472c, subd. (a) [propriety of granting leave to amend complaint is open on appeal even though no request to amend such pleading was made].) This opinion has no effect on the trial court's order sustaining the demurrer on the declaratory relief cause of action. Appellant is awarded costs on appeal.

Woods, J.

We concur: Perluss, P.J.
Johnson, J.

DIVISION EIGHT

B160348 Arch Escrow Corporation (Not for Publication)
v.
KTW, et al.

The judgment of the trial court is affirmed. Respondent is awarded costs on appeal.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B156990 People
v.
Miko

Filed order denying petition for rehearing.

DIVISION EIGHT (Continued)

B164033 Los Angeles Times Communications LLC, et al. (Certified for Publication)
v.
Los Angeles County Board of Supervisors

For the reasons set forth above, the order denying appellants their attorneys fees is reversed. The matter is remanded to the trial court with directions to hold a hearing on the proper amount of fees to be awarded. Appellants are to recover their costs on appeal, including their appellate attorney's fees. (International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc., *supra*, 69 Cal.App.4th at p. 304.)

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B161152 People (Not for Publication)
v.
Rocha

The judgment is modified to award 198 days of actual time served plus 29 days of conduct credit. In all other respects, the judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B166321 People (Not for Publication)
v.
Rivas

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

DIVISION EIGHT (Continued)

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The probation condition requiring Najera to "stay away from places where users or sellers congregate" is modified to require Najera to "stay away from places known to you to be locations where users or sellers congregate." In all other respects, the judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B163411 People (Certified for Publication)
v.
Punzalan

The appeal is dismissed. Respondent Gail Medina Punzalan to recover his costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.